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In re Application of	:	
ROSS, Paul et al.	:	
Application No.: 10/576,010	:	DECISION
PCT No.: PCT/IE2004/000143	:	
Int. Filing Date: 15 October 2004	:	ON PETITION UNDER
Priority Date: 17 October 2003	:	
Docket No.: 9008-1004	:	37 CFR 1.47(a)
For: USE OF PROBIOTIC BACTERIA IN	:	
THE TREATMENT OF INFECTION	:	

This is a decision on applicants' Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 06 August 2007.

**BACKGROUND**

On 15 October 2004, applicants filed international application no. PCT/IE2004/000143, claiming a priority date of 17 October 2003. A copy of the international application was transmitted to the Office by the International Bureau on 21 April 2005. The deadline for payment of the basic national fee in the United States was 17 April 2006.

On 17 April 2006, applicants filed a transmittal letter for entry into the national phase in the United States, accompanied by the basic national fee.

On 05 January 2007, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b).

On 06 August 2007, applicants filed this petition under 37 CFR 1.47(a) with an authorization to charge the fee for a five month extension of time.

**DISCUSSION**

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant.

Items (1) and (4) have been met. (1) The petition fee of \$200 has been paid. (4) The declaration complies with 37 CFR 1.497(a)-(b) and 1.47(a).

Item (2) has not been satisfied. The petition must supply proof that applicant refused to sign after being presented with the application papers (specification, including claims, drawings, and oath or declaration). MPEP §409.03(d). The papers are generally sent to the nonsigning inventor's last known

residential address, but in any event, they have to reach the inventor to establish refusal. See MPEP 605.03 and 409.03(e). To the extent that applicant believes another address is best for reaching the inventor, the papers can be sent there too. Here, applicants merely state that they do not know a home address for the non-signing inventor. They detail no efforts to locate a current residential address for the inventor. Applicants do not state that the business address is current and do not indicate that they have verified that the address is current. Finally, the application papers were signed for by someone other than the inventor. Applicants have not demonstrated that the inventor was presented with a complete copy of the application papers.

Item (3) has not been satisfied. As indicated in MPEP 605.03, applicant must state the last known residential address for the inventor. Additional addresses for the inventor are appreciated, but the last known residential address is required.

### **CONCLUSION**

For the above reasons, applicant's petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Extensions of time under 37 CFR 1.136(a) are available. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter may be filed electronically or if mailed, should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Erin P. Thomson/

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